

Kaspar, Paul

From: Kenneth Teague <kgteague@sbcglobal.net>
Sent: Tuesday, November 6, 2018 10:32 AM
To: swg_public_notice@usace.army.mil; Kaspar, Paul; Martinez, Maria; Rusty.Swafford@noaa.gov; david_hoth@fws.gov; 401certs@tceq.texas.gov; Rebecca Hensley; brandtshnfbt@juno.com; leslie.savage@rrc.texas.gov
Subject: Public Notice SWG-2015-00175

Dear Sir/Ms: I have reviewed the subject PN and have the following comments:

- The PN includes less information than is necessary to properly review such a large and complex project, with very significant impacts to aquatic resources. No detailed information is provided regarding alternatives considered, avoidance and minimization of impacts to aquatic habitats, impacts of the proposed project on aquatic habitats, suitability of dredged material for disposal in the aquatic environment, whether water quality criteria would be met at the point of effluent discharge from upland confined disposal facilities, whether opportunities to avoid pipeline impacts were actually considered, assumptions regarding pipeline impacts, pipeline impacts to streams, impacts to threatened or endangered species, or details of proposed mitigation. Given the size and complexity of the proposed project, and the scale of the impacts to waters of the U.S., this is unacceptable. Do not issue the permit unless and until the public is provided the opportunity to review and comment on all of this information, as part of a Clean Water Act Section 404 public review process.
- The applicant must provide a clear statement of the purpose of the project, and must demonstrate clearly that the 404(b)(1) Guidelines have been met. Currently, the PN clearly does not demonstrate that the applicant has met the requirements of the Guidelines.
- The proposed project will clearly dramatically change hydrology in the aquatic system proposed to be filled, and the larger aquatic system of which this is a part (Vadia ancha). This represents a major impact. It is not even mentioned in the PN. Detailed information regarding these impacts, and proposed mitigation, must be provided. Some of these impacts could be avoided by shifting the fill area to the west/southwest, leaving a tidal pass for water movement connecting to the Vadia ancha.
- The applicant has not demonstrated that they have properly evaluated whether water quality criteria would be met at the effluent discharge from proposed upland confined disposal facilities. The Upland Testing Manual explains how to do this properly.
- While the PN does not provide many details, it is likely that the applicant has underestimated the impacts of the proposed pipeline on aquatic habitats. Typical assumptions for pipeline impacts significantly underestimate the actual impacts, assuming that unassisted natural restoration will fully restore complex aquatic ecosystems. In addition, it is typical to assume that maintaining pipeline rights of way by mowing and herbicides results in no impact to wetlands in the right of way. This is clearly unsupportable. Finally, temporal loss of aquatic habitat and their functions is never considered a loss of environmental functions, while it should be, and it should be mitigated.
- No details are provided regarding proposed mitigation. Preservation is proposed. However, the Mitigation Rule clearly states that preservation is usually the least desirable form of mitigation. The PN must provide the public with a detailed discussion regarding why preservation is appropriate mitigation in this case. There are likely to be a number of restoration opportunities in the project area, which may result in less net loss of aquatic habitat function, than would preservation. The proposal to mitigate by preservation should be rigorously supported. The PN includes no proposal for mitigation for pipeline impacts to wetlands or to stream or other aquatic habitat. The proposed project will fill a large area of shallow open water, and will dramatically alter hydrology of the larger aquatic system of which the area proposed to be filled is a part (e.g. Vadia Ancha). However, the mitigation proposal does not even mention what types of habitats are included in the proposed preservation area. It is highly likely that little or no open water habitat is included in the proposed preservation area. In addition, is it possible to preserve open water habitat, and what does it mean to do

so? Likely, the applicant is proposing to mitigate for filling of shallow open water, out of kind. This is not consistent with the Mitigation Rule. I consider it unacceptable.

- Do not permit the proposed project unless and until detailed information on the above are provided to the public for review and comment.

Sincerely,
Kenneth G. Teague, PWS, Certified Senior Ecologist
Austin, TX

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